IN THE HIGH COURT OF JUDIATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.3452 OF 2004

Vishal @ Munna Jayant Kalekar .. Applicant.
Vs.
State of Maharashtra .. Respondent.

Mr.Abhaykumar Apte for the applicant.
Mr.K.V.Saste APP for the respondent.

CORAM : D.B.BHOSALE, J.

DATED : 23RD AUGUST, 2004

P.C.:

. Heard Mr.Apte, learned counsel for the applicant and Mr.Saste, learned A.P.P. for the respondent.

2. This application is filed under section 439 of the Criminal Procedure Code for being released on bail in C.R.No. 168 of 2003 registered at Pharaskhana police station under sections 302, 307 read with 34 of the Indian Penal Code. The occurrence took place on 8.11.2003 in which the applicant and one another allegedly assaulted deceased - Sandip Kadam by means of stones and stick. The complainant - Pasalkar also sustained injuries in the occurrence, who was with the

deceased at the relevant time. He has specifically named both the accused and has attributed overact to them. Moreover, there are four eye witnesses namely Mohammed Shaikh, Hanumant Shinde, Zamir Shaikh and Prithviraj Yelvande, who claim that they had seen the occurrence and have attributed role to the applicant and stated that they had seen the applicant assaulting the deceased. The post mortem report supports occular version. Keeping that in view and considering the overall facts and circumstances of the case, in my opinion, this is not a fit case to enlarge the applicant on bail. The application is rejected.

. While passing this order, I shall not be understood to have expressed any opinion on merits of the case. The trial court will deal with the case uninfluenced by the observations made in this order.

(D.B.Bhosale, J.)